

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
**BOARD FOR THE CONDEMNATION OF INSANITARY BUILDING**  
P.O. BOX 37200  
WASHINGTON, D.C. 20013-7200

Find enclosed a list of buildings against which condemnation proceedings have been instituted. This list is current as of August, 2005. The following paragraphs will give some insight into why these buildings were condemned and the meaning of condemnation for insanitary reasons.

Each listed property has been condemned by the District of Columbia Government's Board for the Condemnation of Insanitary Buildings (BCIB). The authority for this board is Title 6, Chapter 9, of the District of Columbia Code, 2001 Edition. The BCIB has examined each property and has registered with the record owner (via condemnation) a strong disapproval of the condition in which the property is being maintained. The BCIB has recorded at the Office of the Recorder of Deeds an Order of Condemnation against each property for the benefit of purchasers and the real estate industry.

These properties were condemned because they were found to be in such an insanitary condition as to endanger the health and lives of persons living in or in the vicinity of the property. The corrective action necessary to remove the condemnation order could take the form of demolition and removal of the building by the owner or the BCIB. However, most buildings are rendered sanitary, i.e., the insanitary conditions are corrected by the owner or the BCIB.

The administration of the condemnation program does not take title to property. The title to each property remains with the owner. Accordingly, inquiries for the sale or value of these properties should be directed to the owner of record. Inquiries regarding the owner or owner's address should be directed to the Office of Tax and Revenue, Customer Service, Office of Real Property Tax (202) 727-4829, 941 North Capitol Street, NE, 1<sup>st</sup> floor.

For further assistance, contact the Support Staff of the BCIB on 442-4486.

THE BOARD FOR THE CONDEMNATION OF INSANITARY BUILDING

Enclosure:

**Community Academy Public Charter School  
1300 Allison Street, NW  
Washington, DC 20011**

**NOTICE: REQUEST FOR EDUCATIONAL SERVICES**

Community Academy Public Charter School (CAPCS), in accordance with section 31-2801, 2853.14 of the District of Columbia Reform Act of 1995, is soliciting bids for educational consulting services. These services should include, but not be limited to, driving educational performance; overseeing curriculum, instruction and assessment; and managing professional development. Bidder must be an experienced educational entity with demonstrated success in working with schools.

Bids will be accepted until September 30, 2005. For further information, contact: Leonard A. Upson, Head of Schools, Community Academy Public Charter Schools, 1300 Allison Street, NW, Washington, DC 20011, 202-723-4100

Community Academy Public Charter School  
1300 Allison Street, NW  
Washington, DC 20011

**NOTICE: REQUEST FOR DEVELOPMENT/ARCHITECTURAL/ENGINEERING  
SERVICES**

The deadline for bid proposals has been extended until 4:30 p.m., Friday, September 30, 2005. Contact David Valdez by email [davidvaldez@capcs.org](mailto:davidvaldez@capcs.org) for Bid documents containing information, including location and scope of work. Early bids are encouraged.

SEP 23 2005

## GOVERNMENT OF THE DISTRICT OF COLUMBIA

## ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2005-126  
September 9, 2005

SUBJECT: Reappointment – Public Employee Relations Board

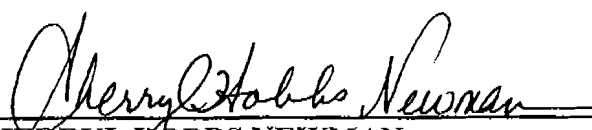
ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, as amended, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22(2) (2001), and pursuant to section 501 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-605.01), and in accordance with the advice and consent of the Council of the District of Columbia, pursuant to Council Resolution 16-164, dated June 7, 2005, it is hereby **ORDERED** that:

1. ANN F. HOFFMAN is reappointed as a public member of the Public Employee Relations Board for a term to end December 12, 2007.
2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to June 7, 2005.

  
ANTHONY A. WILLIAMS  
MAYOR

ATTEST:

  
SHERRYL HOBBS NEWMAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

## GOVERNMENT OF THE DISTRICT OF COLUMBIA

## ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2005-125  
September 7, 2005

**SUBJECT:** Appointment - District of Columbia Police and Firemen's Retirement and Relief Board

**ORIGINATING AGENCY:** Office of the Mayor

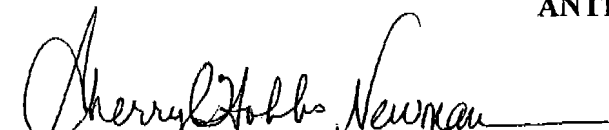
By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, as amended, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22(2) (2001), and in accordance with section 122 of the Act of September 3, 1974, as amended, 88 Stat. 1036, 1041, D.C. Official Code § 5-722, it is hereby **ORDERED** that:

1. **INSPECTOR ETHEL M. JONES** is appointed as an alternate member of the District of Columbia Police and Firemen's Retirement and Relief Board, representing the Metropolitan Police Department (the 'MPD'), replacing Inspector Lillian M. Overton and shall serve at the pleasure of the Mayor for so long as she remains an employee of the MPD.
2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to August 11, 2005.



ANTHONY A. WILLIAMS  
MAYOR

ATTEST:



SHERRYL HOBBS NEWMAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

## GOVERNMENT OF THE DISTRICT OF COLUMBIA

## ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2005-124  
August 31, 2005

**SUBJECT:** Delegation of Mayor's Authority to Review and Determine Appeals Filed  
Pursuant to the Post-Employment Conflict of Interest Administrative Enforcement  
Procedures

**ORIGINATING AGENCY:**

Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(6) of the District of Columbia Home Rule Act of 1973, as amended, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22(6) (2001), it is hereby **ORDERED** that:

1. **DELEGATION**: The General Counsel in the Executive Office of the Mayor is delegated the authority vested in the Mayor to review and determine appeals filed pursuant to the post-employment conflict of interest administrative enforcement procedures set forth in 6 DCMR § 1815.
2. **REPEAL OF PRIOR ORDERS**: This Order supersedes previous Mayor's Orders to the extent of any inconsistency.
3. **EFFECTIVE DATE**: This Order shall be effective immediately.

  
ANTHONY A. WILLIAMS  
MAYOR

ATTEST:

  
SHERRYL HOBBS NEWMAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

## GOVERNMENT OF THE DISTRICT OF COLUMBIA

## ADMINISTRATIVE ISSUANCE SYSTEM

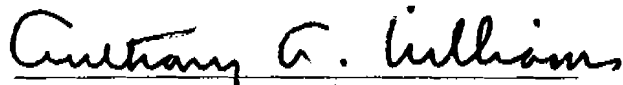
Mayor's Order 2005-123  
August 29, 2005

**SUBJECT:** Delegation of Authority under the District of Columbia Solid Waste Disposal Act of 1989

**ORIGINATING AGENCY:** Office of the Mayor

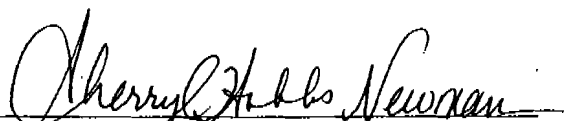
By virtue of the authority vested in me as Mayor of the District of Columbia by sections 422(2) and (6) of the District of Columbia Home Rule Act of 1973, as amended, 87 Stat.790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22(2) and (6) (2001), pursuant to section 2(c) of the District of Columbia Solid Waste Disposal Act of 1989 (the "Act"), effective July 25, 1989, it is hereby **ORDERED** that:

1. The Director of the Department of Public Works, is delegated the authority vested in the Mayor in section 2(c) of the Act to issue rules regarding solid waste disposal fee-setting formulas, including any surcharge, and the solid waste disposal fee schedule.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



ANTHONY A. WILLIAMS  
MAYOR

ATTEST:



SHERRYL HOBBS NEWMAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

**BOARD FOR  
THE CONDEMNATION OF INSANITARY BUILDINGS**

**NOTICE OF PUBLIC INTEREST**

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<b><u>Northwest</u></b>			
1102 Buchanan Street	124	2918	4
1102 Buchanan Street-Rear	124	2918	4
5109 Connecticut Avenue	48	1989	3
5109 Connecticut Avenue	48	1989	3
5109 Connecticut Avenue-Rear	48	1989	3
1323 Corcoran Street	21	240	2
1461 Florida Avenue	147	2660	1
3003 Georgia Avenue	111	3052	1
3200 Georgia Avenue	909	2892	1
3200 Georgia Avenue-Rear (West)	909	2892	1
3200 Georgia Avenue-Rear (East)	909	2892	1
3626 Georgia Avenue	135	2897	1
3801 Georgia Avenue	55	3028	4
739 Harvard Street	73	2888	1
1342 Ingraham Street-Rear	75	2804	4
4907 Kansas Avenue	77	3252	4
641 Keefer Place	19	3041	1
440 Kenyon Street	43	3049	1
709 Kenyon Street	806	2892	1
416 Luray Place	77	3044	1
416 Luray Place-Rear	77	3044	1
430 Manor Place	65	3036	1
37 Missouri Avenue	39	3393	4
39 Missouri Avenue	40	3393	4
1824 Monroe Street	813	2614	1
1320 North Capitol Street	154	617	5
1424 North Capitol Street	10	616	5
1424 North Capitol Street-Rear	10	616	5
405 O Street	802	511	2
509 O Street	479	2001/2002	2
1427 Q Street	9	208	2
1001 Quebec Place	63	2902	4
930 Quincy Street	95	2901	4
936 Quincy Street	92	2901	4
1000 Rhode Island Avenue	19	337	2

**8673**



<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Northwest (Cont'd)</u>			
719 S Street	38	417	1
423 Shepherd Street	38	3238	4
423 Shepherd Street-Rear	38	3238	4
1355 Shepherd Street	45	2823	4
201 T Street	832	3088	1
815 T Street	23	393	1
613 Upshur Street	72	3226	4
613 Upshur Street-Rear	72	3226	4
1509 Van Buren Street	14	2732	4
1509 Van Buren Street-Rear	14	2732	4
1505 Varnum Street	25	2698	4
215 Whittier Street-Rear	820	3363	4
1329 Wisconsin Avenue	68	1232	2
1333 1 <sup>st</sup> Street	193	617	5
1401 1 <sup>st</sup> Street	814	616	5
1202 3 <sup>rd</sup> Street	837	523	2
5311 3 <sup>rd</sup> Street-Rear	6	3328	4
1215 4 <sup>th</sup> Street	813	523	6
1221 4 <sup>th</sup> Street	848	523	2
1555 9 <sup>th</sup> Street	819	397	2
1104 6 <sup>th</sup> Street	859	449	2
1905 8 <sup>th</sup> Street	802	416	1
1905 8 <sup>th</sup> Street -Rear	802	416	1
1301 9 <sup>th</sup> Street	801	399	2
1303 9 <sup>th</sup> Street	62	399	2
1305 9 <sup>th</sup> Street	63	399	2
1307 9 <sup>th</sup> Street	803	399	2
1309 9 <sup>th</sup> Street	804	399	2
1513-1515 11 <sup>th</sup> Street	815	337	2
1715 11 <sup>th</sup> Street	10	335	2
2208 14 <sup>th</sup> Street	30	202	1
3718 14 <sup>th</sup> Street	34	2692	4
3350 17 <sup>th</sup> Street	93	2612	1
3350 17 <sup>th</sup> Street-Rear	93	2612	1
3222 19 <sup>th</sup> Street	817	2604	1
3222 19 <sup>th</sup> Street-Rear	817	2604	1

8674

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Northeast</u>			
1033-39 Bladensburg Road	807	4473	5
4952 Blaine Street	1	5189N	7
3027 Channing Street	54	4360	5
3042 Clinton Street	826	4319	5
5918 Dix Street	821	5262	7
2001-R Gales St-Rear #1	800	4525	7
2001-R Gales St-Rear #2	800	4525	7
2001-R Gales St-Rear #3	800	4525	7
2001-R Gales St-Rear #4	800	4525	7
2001-R Gales St-Rear #5	800	4525	7
2001-R Gales St-Rear #6	800	4525	7
2001-R Gales St-Rear #7	800	4525	7
2001-R Gales St-Rear #8	800	4525	7
2001-R Gales St-Rear #9	800	4525	7
2001-R Gales St-Rear #10	800	4525	7
1511 Isherwood Street	176	4544	6
303 K Street	804	775	6
5243 Karl Place	802	5205	7
4510 Lee Street	144	5155	7
1227 Meigs Place	106	4055	5
1659 Montello Avenue	21	4055	5
1524 Olive Street	34	5165	7
1524 Olive Street-Rear	34	5165	7
1243 Owen Place	188	4060	5
115 Riggs Road	85	3701	5
1741 Trinidad Avenue	26	4082	5
234 V Street	11	3561	5
415 W Street	41	3601	5
1020 3 <sup>rd</sup> Street	34	749	6
1022 3 <sup>rd</sup> Street	33	749	6
819 8 <sup>th</sup> Street	28	911	6
1003 8 <sup>th</sup> Street	44	909	6
150 11 <sup>th</sup> Street	965	27	6
1012 9 <sup>th</sup> Street	807	909	6
214 15 <sup>th</sup> Street	106	1055	6
3721 30 <sup>th</sup> Place	814	4304E	5
226 47 <sup>th</sup> Street	805	5137	7
1136 47 <sup>th</sup> Place	137	5155	7
1227 47 <sup>th</sup> Place	39	5160	7
1017 48 <sup>th</sup> Street	10	5153	7

8675

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Southeast</u>			
1816 Bay Street	88	1112	6
10 Brandywine Street	804	6170	8
3333 Brothers Place	39	6003E	8
4915 C Street	28	5336	7
4926 Call Place	33	5336	7
4930 Call Place	32	5336	7
5000 Call Place	35	5323	7
1425 Congress Place	48	5889	8
1107 D Street	50	992	6
3326 Ely Place	807	5444	6
647 G Street	139	878	6
3009 G Street	807	5480	7
1239 Goodhope Road	89	3033	8
1400 K Street	800	1065	6
2228 Martin Luther King Jr	810	5802	8
2234 Martin Luther King Jr	811	5802	8
2238 Martin Luther King Jr	978	5802	8
2412 Martin Luther King Jr	243	5806	8
2629 Martin Luther King Jr-East	192	5867	8
2629 Martin Luther King Jr-West	192	5867	8
3600 Martin Luther King Jr	42	5331	7
3600 Martin Luther King Jr-Rear	42	5331	7
917 New Jersey Avenue	15	738	6
919 New Jersey Avenue	16	738	6
921 New Jersey Avenue	17	738	6
923 New Jersey Avenue	18	738	6
1008 South Carolina Avenue	23	970	6
1225 Sumner Road	980	5865	8
1242 W Street	99	5782	8
1518 W Street	814	5779	8
4010 3 <sup>rd</sup> Street	806	6167	8
4014 3 <sup>rd</sup> Street	804	6167	8
1012 7 <sup>th</sup> Street	11	906	6
1014 7 <sup>th</sup> Street	10	906	6
3020 7 <sup>th</sup> Street	50	5953	8
102 9 <sup>th</sup> Street	801	943	6
2304 16 <sup>th</sup> Street	76	5753	8
418 17 <sup>th</sup> Street	74	1102	6
2525 33 <sup>rd</sup> Street	803	5690	7

8676

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Southwest</u>			
78 Darrington Street-Rear	23	6223S	8
71 Forrester Street	67	6240	8
10 N Street	60	653	6

**BOARD OF ELECTIONS AND ETHICS  
CERTIFICATION OF ANC/SMD VACANCIES**

The District of Columbia Board of Elections and Ethics hereby gives notice that there are vacancies in **eleven (11)** Advisory Neighborhood Commission offices, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed.

**VACANT:**            **3D07**  
                             **5C10, 5C11**  
                             **6B11**  
                             **8B02, 8B03, 8C05, 8C06, 8E01, 8E06**

Petition Circulation Period: **Tuesday, September 13, 2005 thru Monday, October 3, 2005**  
Petition Challenge Period: **Thursday, October 6, 2005 thru Thursday, October 13, 2005**

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**VACANT:**            **1C07**

Petition Circulation Period: **Tuesday, September 27, 2005 thru Monday, October 17, 2005**  
Petition Challenge Period: **Thursday, October 20, 2005 thru Wednesday, October 26, 2005**

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Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

**D.C. Board of Elections and Ethics  
441 - 4<sup>th</sup> Street, NW, Room 250N**

For more information, the public may call **727-2525**.

**DISTRICT OF COLUMBIA  
BOARD OF ELECTIONS AND ETHICS**

**Certification of Filling a Vacancy  
In Advisory Neighborhood Commission**

Pursuant to D.C. Code section §1-309.06 (d)(6)(G) and the resolution transmitted to the District of Columbia Board of Elections and Ethics ("Board") from the affected Advisory Neighborhood Commission, the Board hereby certifies that a vacancy has been filled in the following single member district by the individual listed below:

**Habieba Snow-Israel  
Single Member District 4A05**

**Friendship Public Charter School**  
**Request for Proposals**  
**Director/Afterschool Journalism Program**

Interested parties shall respond to this RFP by submitting a resume, samples of published student work, at least two reference letters and by addressing the specific proposal requirements as requested in this RFP in an envelope clearly marked, "RFP-DIRECTOR/AFTERSCHOOL JOURNALISM PROGRAM/FRIENDSHIP PUBLIC CHARTER SCHOOL" to:

Mr. Brad Russell (2 copies, 1 original inclusive)  
Friendship Public Charter School  
900 Pennsylvania Ave. SE  
Washington, DC 20003

By no later than 4:00pm on September 30, 2005

Introduction

Friendship Public Charter School (FPCS) is soliciting credentials and qualification statements from parties having specific interest and qualifications in the areas identified in this solicitation. Qualification statements for consideration must contain evidence of the bidder's experience and abilities in the specified area and other disciplines directly related to the proposed work. Other information required by FPCS includes the submission of profiles and resumes of the staff to be assigned to the project, references, illustrative examples of similar work performed and any other requested information which will clearly demonstrate the bidder's expertise in the area of this solicitation.

A selection committee will review and evaluate all qualification statements and credentials and may request that the bidders make oral presentations and or provide additional information. The selection committee will rely on the qualification statements and proposal in selection of finalists and therefore, bidders should emphasize specific information considered pertinent to this solicitation and submit all information requested under proposal requirements.

Project Scope

DIRECT AN AFTERSCHOOL JOURNALISM PROGRAM FOR FRIENDSHIP PUBLIC CHARTER SCHOOL AS ASSIGNED BY BOARD OF TRUSTEES FOR A PERIOD OF NO LESS THAN ONE YEAR.

It is the intent of this RFP to select a professional in the field of communications with solid experience both in the fields of communication and development and implementation of after school journalism programs on a local and national level.

The director will work directly with the Chief Operating Officer, principals of FPCS and other members of the school staff to develop and implement the program. Work will include but is not limited to: hiring and overseeing a staff of teachers, interns and technical professionals; managing budgets; strategic planning; product development; outreach and community development; fundraising and preparing reports and evaluation materials. Qualifying candidates will demonstrate a proven track record as both a communications and after school program professional as well as demonstrate knowledge of District of Columbia youth and education issues.

Description of Organization

FPCS operates 5 campuses for 3,100 K-12 students in the District of Columbia. The student population is predominantly low-income, 99% African American, with the majority of children Title I eligible. FPCS includes three elementary schools, one middle school and one high school.

Qualification Statement Requirements

Proposals shall include, at a minimum, the following information organized as follows in their qualification statement:

1. A brief discussion of the individual/firm/organization and services offered;
2. Information that demonstrates a history of services of a similar nature and scope as those required by this solicitation.
3. Contractor's name, contact information, telephone number,
4. Proposed project description, projected project value.
5. Resume showing qualification and experience of contractor(s).

Proposal Requirements

1. Qualification Statement
2. Illustrative samples of student work
3. 2 reference letters
4. Hourly rates
5. Sample contract

For further information, contact Mr. Brad Russell at (202) 675-9060.



**METROPOLITAN POLICE DEPARTMENT****NOTICE OF INTENT TO DEPLOY ADDITIONAL  
TEMPORARY CLOSED CIRCUIT TELEVISION CAMERAS****NOTICE OF DEPLOYMENT OF ADDITIONAL  
PERMANENT CLOSED CIRCUIT TELEVISION CAMERAS**

The Chief of the Metropolitan Police Department, pursuant to the public notice requirements established in 24 D.C. Municipal Regulations (DCMR) § 2502.1 et seq., hereby gives notice of the intent to deploy additional, temporary Closed Circuit Television (CCTV) cameras to support public safety operations during the International Monetary Fund and World Bank Group meetings and related anti-globalization and anti-war demonstrations from September 23 through September 26, 2005.

During this time, the temporary cameras will be deployed generally in the area of the IMF and World Bank buildings at 19<sup>th</sup> Street NW and G Streets NW, and a temporary camera may be deployed in the area of 9<sup>th</sup> Street, NW and Pennsylvania Avenue, NW. Temporary cameras will also be deployed on Saturday, September 24, from approximately 12:30 pm until 6:30 pm along the approved demonstration route which is as follows: The Ellipse to Constitution Avenue, east on Constitution Avenue, north on 15th Street, NW, east on Pennsylvania Avenue, north on 17th Street, NW, east on H Street, NW, south on 14th Street, NW, east on Pennsylvania Avenue, south on 9th Street, NW, west on Constitution Avenue, back to Ellipse.

In addition, from Friday, September 23 through Monday, September 26, a helicopter may be deployed with a temporary camera to monitor events on an as-needed basis.

The Chief of Police further gives notice that the MPD's current CCTV system now includes twenty (20) cameras. The temporary cameras being deployed from September 23 through 26, 2005, are in addition to the twenty (20) permanent cameras that are part of the MPD's CCTV system. Pursuant to 24 DCMR §2502.1, the Metropolitan Police Department is required to provide public notice of plans to deploy CCTV cameras prior to such deployment, except under exigent circumstances

The general locations of the twenty (20) permanent Closed Circuit Television (CCTV) cameras are as follows:

**Camera Location**

Union Station, NE

3rd Street and Constitution Avenue, NW

3rd Street and Independence Avenue, SW

9th Street and Jefferson Drive, SW

L'Enfant Plaza, SW

**Camera Location**

19th and H Streets, NW

Memorial Bridge area (Rosslyn)

McPherson Square

Farragut Square

Lafayette Park

**Camera Location**

Dupont Circle, NW (south end)  
14th Street and Constitution Avenue, NW  
15th Street and Pennsylvania Avenue, NW  
18th Street and Pennsylvania Avenue, NW  
12th Street and Pennsylvania Avenue, NW  
(2 cameras)

**Camera Location**

3600 Block of M St, N.W.  
1300 Block of Wisconsin Ave, NW  
3200 Block of M Street NW  
Key Bridge area  
(35th Street and Canal Road, NW)

The public may submit comments in writing regarding a particular deployment, or the CCTV system in general, to the Chief of Police, Metropolitan Police Department, 300 Indiana Avenue, NW, Room 5080, Washington, DC, 20001, or via e-mail at [mail.chief-of-police@dc.gov](mailto:mail.chief-of-police@dc.gov)

The Metropolitan Police Department's CCTV system is a secure, wireless network of 20 cameras owned and operated by the MPD. These cameras are mounted on various buildings primarily in the downtown DC area. They focus on public spaces around the National Mall, the US Capitol, the White House, Union Station and other critical installations, as well as major arteries and highways that pass through downtown DC. Under DC regulations, additional cameras can be added to the network on a temporary or permanent basis following a period of public comment. During exigent circumstances, additional cameras can be deployed on a temporary basis without advance public notice, but with a post-deployment notification to the public.

The CCTV system is not a round-the-clock video monitoring operation. The system is activated only during major events in the District (such as large-scale demonstrations, the Fourth of July celebration, Presidential Inaugurations, etc.) or during periods of heightened alert for terrorism. CCTV camera feeds are displayed in the MPD's Joint Operations Command Center (JOCC), a secure facility located on the 5th Floor of police headquarters. The JOCC is operated by the MPD, but may include staff from other federal, regional, state and local public safety agencies participating in joint operations.

The MPD's use of CCTV is designed to ensure the protection of personal privacy rights. The CCTV network has no audio capability; it provides video images of public spaces only. The cameras can pan at 360 degrees and tilt at 180 degrees. The cameras do have the capability to zoom in on a particular location, but are used primarily to monitor wide areas of public space, not the individuals within that space. The CCTV system does not use face-recognition or any other biometric technology. Both DC regulations and internal MPD policy expressly prohibit the arbitrary monitoring of individuals or monitoring of individuals based on race, gender or other factors. Regulations and policies also prohibit the use of the CCTV system for the purpose of infringing on First Amendment rights.

Additional information about the CCTV network can be found on the MPD website at [www.mpdc.dc.gov/cctv](http://www.mpdc.dc.gov/cctv).

Office of the Secretary of the  
District of Columbia

September 8, 2005

Notice is hereby given that the following named persons have been appointed as Notaries Public in and for the District of Columbia, effective on or after October 1, 2005.

Anderson, Denise M.	Rpt	Decatur House Museum 1610 H St,NW 20006
Bowlding, Jr., Norman J.	Rpt	Rodriguez O'Donnell et al 1211 Conn Ave,NW#800 20036
Brookins, Jr., Edgar A.	Rpt	Wash Afro Amer Newspaper 1612 14 <sup>th</sup> St,NW 20009
Franklin, DeShaunta L.	Rpt	D O A/R U S/S R D 1400 Indep Ave,SW 20250
Gonzalez, Sonia	Rpt	Miller Reporting 735 8 <sup>th</sup> St,SE 20003
Hartl, Ione M.	Rpt	2555 Pa Ave,NW#211 20037
Hemphill, Melissa M.	Rpt	Rome Abstracting 1211 Decatur St,NW 20011
Hook, Jeff M.	Rpt	Corbin & Hook Reporting 1100 H St,NW#450 20005
Houser, David C.	Rpt	Hillel 800 8 <sup>th</sup> St,NW 20001
Johnson, Kelly	Rpt	Boston Properties 901 N Y Ave,NW#400 20001
Johnson, Tammye D.	Rpt	ONDCP/OLC 750 17 <sup>th</sup> St,NW 20503

Kaltenbaugh, Carol R.	Rpt	Davis Wright Tremaine 1500 K St,NW#450 20005
Lewis, William C.	Rpt	1632 Crittenden St,NW 20017
Long, Janice E.	Rpt	King Pagano Harrison 1730 Pa Ave,NW#900 20006
McCoy, Tara S.	Rpt	Office of Bar Counsel 409 E St,NW 20001
Read, Julia S.	Rpt	Goldberg Godles et al 1229 19 <sup>th</sup> St,NW 20036
Stewart, Deborah A.	Rpt	Jackson & Campbell 1120 20 <sup>th</sup> St,NW S/T 20036
Toney, Patricia A.	Rpt	709 Florida Ave,NE 20002
Weir, Susan M.	Rpt	Catholic Univ/Leahy Hall 620 Mich Ave,NE#260 20064
Willis, Tandra Y.	Rpt	4011 8 <sup>th</sup> St,NW 20011
Wilson, Guy S.	Rpt	The Wilson Agency 5100 Wis Ave,NW#516 20016
Young, Lisa A.	Rpt	King & Spalding 1700 Pa Ave,NW 20006

**DISTRICT OF COLUMBIA REGISTER****GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 17204 of Richard and Christina Donnell**, pursuant to 11 DCMR 3104.1, for a special exception under § 223 to construct a three-story addition to a single-family row dwelling not meeting the lot area and lot width minimums of § 401, the rear yard minimum of § 404, or the requirements for additions to nonconforming structures of § 2001, located in the FB/R-3 District at premise 2512 I Street, N.W. (Square 17, Lot 35).<sup>1</sup>

**HEARING DATE:** September 21, 2004 and November 30, 2004  
**DECISION DATE:** January 18, 2005

**DECISION AND ORDER**

This application was originally filed on June 10, 2004 by Richard and Christina Donnell ("Applicants"), the owners of the property that is the subject of this application ("subject property"). The subject property, although originally built as a single-family dwelling, had been divided into individual units and rented to students since sometime in the 1960's. The Applicants intend to renovate the structure completely as a single-family home and applied to the Board of Zoning Adjustment ("Board " or "BZA") for variances from the lot occupancy and rear yard provisions of the Zoning Regulations in order to permit the construction of a three-story addition at the rear of the dwelling.

The Board scheduled a public hearing on the application on September 21, 2004, but at the hearing, the Applicants requested a continuance. Due to neighborhood opposition, particularly to the large proposed increase in lot occupancy, the Applicants decided to revise their plans and to work further with the neighborhood. At the September 21, 2004 hearing, therefore, the Board determined only party status, and granted the Applicants' request for a continuance of the remainder of the hearing until November 30, 2004.

The Applicants changed their plans and filed a revised application with the Board on October 29, 2004. The revised plans included a new proposal, which reduced the proposed lot occupancy and thus changed the relief requested from several variances to a special exception under 11 DCMR § 223. The hearing on the revised application was held and completed on November 30, 2004.

The Board held a Special Public Meeting on January 18, 2005 at which it decided to grant the revised application by a vote of 4-0-1, with one member not participating.

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<sup>1</sup>The application was originally advertised as a request for several variances. Prior to the hearing, Applicants revised their plans, which changed the necessary relief .

**PRELIMINARY MATTERS**

Notice of Application and Notice of Hearing. By memorandum dated June 14, 2004, the Office of Zoning ("OZ") gave notice of the filing of the application to the Office of Planning ("OP"), the District Department of Transportation ("DDOT"), Advisory Neighborhood Commission ("ANC") 2A, Single Member District/ANC 2A03, and the Council Member for Ward 2. Pursuant to 11 DCMR § 3113.13, OZ published notice of the hearing on the application in the *District of Columbia Register* and on July 27, 2004, mailed notices to all owners of property within 200 feet of the subject property, advising them of the date of the hearing. On July 27, 2004, and again on July 29, 2004, OZ mailed notices of the date of the hearing to the Applicants and to ANC 2A.

Requests for Party Status. ANC 2A was automatically a party to this case. Party status was also granted to Paul Falon, a concerned neighbor.

Applicants' Case. Richard Donnell, one of the Applicants, testified regarding the project, his contact with the neighbors, and his appreciation for the historic district within which the subject property is situated. The Applicants' architect testified with more specificity about the project and other buildings in the neighborhood. The Applicants' immediate neighbor, who resides in the row dwelling attached to the Applicants' dwelling, testified enthusiastically in support of the Applicants' project.

Government Reports. The Office of Planning filed a report on the original application with the Board on September 14, 2004. OP opined that the application did not meet any of the variance tests and recommended denial of both the lot occupancy and rear yard variances. It also suggested that variance relief might be necessary from 11 DCMR § 1523.1, a provision of the Foggy Bottom Overlay District (*See*, 11 DCMR §§ 1521 - 1524), within which the subject property is located.

After the Applicants revised their plans, changing the relief requested from several variances to a special exception, OP filed a Supplemental Report, dated November 23, 2004, in which OP concluded that the addition would not have adverse impacts on light, air, or the privacy of use and enjoyment of neighboring properties. However, OP declined to make a specific recommendation because of outstanding issues regarding the calculation of lot occupancy, the relationship between Section 223 and the Foggy Bottom Overlay, and the absence of input from HPRB regarding the visual impact of the addition on the character, scale and pattern of houses along the street frontage. No other government reports were filed in this application.

ANC Reports. The ANC submitted a letter dated September 15, 2004, stating that at its regular monthly meeting on September 14, 2004, with a quorum present, the ANC voted to oppose the Applicants' variance requests. During the afternoon before the evening meeting Applicants informed the ANC that they had revised their proposal, and that they

would be presenting their new proposal before the ANC that night. However, after the Applicants' presentation, the ANC was not yet ready to vote on the new proposal and requested that the Applicants ask for a continuance of the BZA hearing scheduled for September 21, 2004, in order to permit the ANC and the neighborhood to evaluate and take action on the new proposal.

The ANC submitted a second letter, dated September 16, 2004, formally requesting that the BZA postpone its consideration of the application and stating that the ANC would review the Applicants' revised plans at its October 20, 2004 meeting.

On November 11, 2004, the ANC submitted a third letter requesting another continuance of the hearing. The letter stated that, because the revised application was filed with the Board on October 29, 2004, and the ANC's November meeting was held on November 10<sup>th</sup>, the ANC did not have adequate time to review the application and consult with its zoning counsel. The letter further stated that the ANC's next meeting would be held on December 15, 2004, at which time the ANC expected to reach its official position on the revised application.

On January 7, 2005, the ANC submitted a resolution in opposition to the revised application. The resolution set forth the ANC's basis for its opposition, an analysis of certain legal issues requested by the Board of all parties, and a suggested amended proposal. On January 13, 2005, the ANC also submitted a response to the Applicant's legal analysis of issues requested by the Board.

## FINDINGS OF FACT

1. The subject property is located at 2512 I Street, N.W., in Square 17, Lot 35. It is in an R-3 zone district, within the Foggy Bottom Historic District and the Foggy Bottom Overlay District ("FB Overlay" or "Overlay").
2. The subject property is nonconforming as to lot area and lot width, with a lot area of approximately 1,362.5 square feet and a lot width of 13.6 feet. *See*, 11 DCMR §401.3.
3. The neighborhood surrounding the subject property is mostly residential, with a mix of single- and multi-family dwellings.
4. The subject property is improved with a pre-1958 two-story row dwelling, attached on its west side to a 2-story row dwelling with a 3-story addition at the rear. The dwelling on the subject property and the series of 8 row dwellings to which it is attached to the west, are all set back 25 feet from I Street, N.W.

5. Immediately to the east of the subject property is a vacant lot between it and a series of 5 row-type dwellings extending eastward to the corner of I Street, N.W. and 25<sup>th</sup> Street, N.W. These dwellings are set much further forward toward I Street than the series of row dwellings to which the Applicants' dwelling is attached.
6. The rear of the subject property abuts the end of a dead-end 30-foot wide public alley.
7. At some point in the 1960's, a cellar-level carport was added to the rear of the subject dwelling. The carport is approximately 10-feet wide and extends to the rear lot line.
8. Since at least the 1960's, the dwelling on the subject property had been rented to successive groups of students and its interior had been modified for that purpose. It had been divided into apartments using cinderblock walls and steel doors and the individual units on each floor were further subdivided into separate rooms.
9. The Applicants are proposing to extensively renovate the dwelling and return it to single-family use. They propose to add a 3-story rear addition and to replace the cellar-level carport with a partially underground garage, a portion of which will be under the rear-most part of the addition.
10. The proposed garage and the deck proposed for its rooftop will result in the loss of the required 20-foot rear yard of the dwelling. *See*, 11 DCMR § 404.1.
11. The ceiling of the partially-underground garage will be lower than that of the currently-existing carport and will not extend above the level of the main floor of the rear of the dwelling. Also, the garage and its rooftop deck will be placed so as not to obstruct light and ventilation to the dwelling or to neighboring buildings. Therefore, the Zoning Administrator ("ZA") informed the Applicants that the proposed garage would not count toward the dwelling's lot occupancy. *See*, 11 DCMR § 199.1, definitions of "Percentage of lot occupancy" and "Building area."
12. The lot occupancy of the dwelling is approximately 47%, and with the proposed addition, it will increase to 60%, the maximum permitted as a matter-of-right for a row dwelling in an R-3 district. *See*, 11 DCMR § 403.2.
13. The height of the proposed addition will be approximately 33 feet, and 3 stories, within the matter-of-right maximums of 40 feet and 3 stories permitted in the R-3 district. *See*, 11 DCMR § 400.1.



14. There are several other three-story buildings in the neighborhood of the subject property and within the FB/R-3 zone district, including the adjoining dwelling and the dwelling attached on the other side of the adjoining dwelling. At least two dwellings on the other side of the vacant lot immediately to the east of the subject property are two-and-a-half to three stories in height. To the south, across the rear alley, is a building well over 3 stories tall.
15. The third floor of the Applicants' addition will begin at the rear wall of the existing dwelling. It will be set back approximately 29 feet from the façade of the existing dwelling and approximately 15 feet further from the street than the third floor of the adjoining dwelling.
16. On the approximately 29 feet of second-floor rooftop between the façade of the existing dwelling and the front wall of the third floor addition, the Applicants are proposing a rooftop deck.
17. The rear wall of the proposed addition will align with the rear wall of the rear addition of the adjoining dwelling.
18. The addition will not have any windows on the sides, but only on the rear, facing the alley, and on the front wall of the third story overlooking the rooftop deck and the street.
19. Because of its 29-foot setback, the third-floor addition cannot be seen from the street in front of the subject property and only a small portion of it is visible from the street area in front of the vacant lot to the east.

## **CONCLUSIONS OF LAW**

### **Preliminary Matters**

Prior to the Board's determination of the special exception relief in this case pursuant to § 223 of the Zoning Regulations, the Board addressed the following preliminary legal issues regarding whether special exception relief is even available in this case. These preliminary legal issues are addressed first below, and a discussion of whether the requirements of § 223 are met, follows.

Special exception relief pursuant to § 223 is not precluded within the Foggy Bottom Overlay.

ANC 2A and the party in opposition (hereinafter the opposition party) argued that the Foggy Bottom Overlay precludes property owners within the Overlay from seeking special exception relief under 11 DCMR § 223. That section allows the BZA to permit deviations from certain area requirements of the zoning regulations as a special exception

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rather than a variance. Specifically, ANC 2A and the opposition party argued that the language in § 1521.3(a)(2), in conjunction with § 1522.3, precluded the use of § 223 for an addition of a third story within the Overlay.

Section 1522.3 states that [w]here there is a conflict between this chapter and the *underlying zoning*, the more restrictive provisions of this title shall govern” (emphasis added). Section 1521.3(a)(2) sets forth one of the purposes of the FB Overlay as requiring a scale of development consistent with “[t]he characteristics of the low scale harmony of rhythmic townhouses of a purely residential neighborhood that formed the basis on which the area was designated a historic district.” Section 1523.1 specifically provides that legitimate uses existing in a building constructed before April 17, 1992 shall be deemed conforming “except that no addition ... shall be permitted unless in conformance with the requirements of the underlying R-3 District.” The underlying zone of the subject property is R-3, which permits three stories as a matter-of-right. 11 DCMR § 400.1.

Section 223 allows for an addition to a one family dwelling or flat to be approved as special exception as follows:

An addition to a one-family dwelling or flat, in those Residence Districts where a flat is permitted, that does not comply with all of the applicable area requirements of §§ 401, 403, 404, 405, 406, and 2001.3 shall be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104 ... .

11 DCMR § 223.1.

As set forth above, § 223 applies to properties in all residence zones and does not exclude properties in overlay zones. For this reason, the Board disagrees with the ANC that § 223 relief could not be granted, because such relief would not be “in conformance with the requirements of the underlying R-3 District” as required by § 1523.1.

Section 1523.1 is a rule of interpretation that resolves potential conflicts between substantive zoning requirements in favor of the more restrictive. It does not preclude the Board from granting special exception or variance relief from the applicable zoning requirement. To find otherwise would be in contradiction of the Zoning Act, which expressly permits the Board to make special exceptions as provided by the Zoning Commission “to the provisions of the zoning regulations in harmony with their general purpose and intent.” The Zoning Commission expressly precludes this relief when it so intends.<sup>2</sup>

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<sup>2</sup> An example of such an express exclusions is the following provision from the Southeast Federal Center Overlay.

1804.1 Within the SEFC/R-5-D and R-5-E Districts, the following buildings, structures, and uses are not

In fact, the legislative history of the FB Overlay indicates to the contrary – that the Zoning Commission intended property owners to maintain avenues of relief, specifically for non-conforming properties.

In Order No. 714, dated March 19, 1992, the Commission stated, at page 7:

The Commission believes that many of the properties, as is the case in many historic districts, generally are already nonconforming. Thus, the rezoning proposed [*i.e.*, the FB Overlay] does not significantly alter the process available to property owners for obtaining relief if additions to existing structures are sought.

This statement indicates that the Commission did not intend to make the usual avenues of relief – special exceptions and variances – unavailable within the FB Overlay. The FB Overlay does not prohibit a three-story addition.

The ANC and the opposition party further posited that a three-story addition could not be permitted by the Board because “the low scale harmony of rhythmic townhouses” language of § 1521.3(a)(2) precludes 3 stories and, notwithstanding the fact that 3 stories are permitted as a matter-of-right in the underlying R-3 zone, the more restrictive “low scale harmony” language of § 1521.3(a)(2) governs, per § 1522.3.

There was no evidence presented that *any* special exception under § 223 is automatically disruptive of the historic district or the “low scale harmony of rhythmic townhouses” that the FB Overlay was established to preserve. Nor was there persuasive evidence that a third-story addition would be at odds with this “low scale harmony.” The Overlay does not define “low scale harmony” and does not set a height limit of 2 stories. In fact, a careful reading of § 1523.1 belies any assumption that a 2-story maximum should be inferred. A third-story is in conformance with the R-3 District and therefore would be permitted under the language of § 1523.1. The Board finds that a contrary interpretation of § 1521.3(a)(2) is inconsistent with the more specific language of § 1523.1. Moreover, § 1521.3 (a) (2), is not a substantive provision, but states one of the Overlay’s purposes. As such, the “low scale harmony” language of § 1521.3(a)(2) provides only guidance to the Board. It is merely precatory language and not controlling. *See, Georgetown Residents Alliance v. District of Columbia Board of Zoning Adjustment*, 802 A.2d 359, 364 (D.C. 2002).

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permitted:

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- (d) Uses subject to special exception review in the underlying R-5-D or R-5- E zone districts that are not listed in § 1804.2 as being subject to Zoning Commission review and approval.

Zoning Commission Order No. 714 reinforces that 3 story additions are permissible within the FB Overlay. The Order, at 2, notes that, at the time the Overlay was created, the Foggy Bottom Historic District had R-3, R-4, R-5-A, R-5-B, R-5-C, and R-5-D zone districts within it. R-3, R-4, and R-5-A districts have a 40-foot, 3-story height limit. 11 DCMR § 400.1. R-5-B, R-5-C, and R-5-D districts, however, have, respectively, 50-, 60- and 90-foot height limits, with no limit on the number of stories. *Id.* R-4 districts also permit conversions to apartment buildings and certain institutional uses. Neither of these uses are permitted in R-3 districts, which are therefore less dense districts. The Commission chose R-3 zoning as the underlying zone within the Overlay, as the most appropriate “means of stabilizing the existing character of the community.” Zoning Commission Order No. 714 at 7. Knowing that the R-3 district permitted a 3-story height maximum, the Zoning Commission chose to map the FB Overlay R-3, thereby permitting 3 stories within the Overlay.

Accordingly, the Board finds that the FB Overlay does not establish a blanket prohibition on third-story additions on properties within it.

A roof deck may be permitted within the Foggy Bottom Overlay.

The opposition argues unpersuasively that the Board should disallow the Applicants’ proposed roof deck because it is out of character with the historic nature of the neighborhood. There is no provision in the Zoning Regulations prohibiting roof decks in the FB Overlay or elsewhere.. Therefore whether the roof deck is permissible must be determined with reference to the criteria listed in § 223.

The lot occupancy calculation of the Applicants’ dwelling does not include the proposed partially-underground garage.

The final preliminary issue the Board needed to determine was whether the garage of the proposed addition should be counted in the lot occupancy calculation for the proposed addition. If the garage were to be counted in this calculation, then the lot occupancy of the dwelling would have exceeded the 60% limitation set forth in § 223 and applicants would have been ineligible to avail themselves of this form of relief.

The Applicants and the ZA concluded that the partially-underground garage did not count toward lot occupancy; OP alternatively questioned whether the garage should count towards lot occupancy. The Board agrees with the Applicants and the ZA. The definition of “Percentage of lot occupancy” directs the reader to the definition of “Building area.” *See*, 11 DCMR § 199.1. Essentially, any portion of a lot that is or may be occupied as “building area” counts toward lot occupancy. The definition of building area states that the term:

Shall [not] include portions of a building that do not extend above the level of the main floor of the main building, if placed so as not to obstruct light and ventilation of the main building or of buildings on adjoining property.

11 DCMR § 199.1, definition of "Building area." Because a portion of the roof of the garage extends above the main level of the house, OP suggested that the garage count toward lot occupancy. However, the roof of the garage does not extend above the level of the main floor of the part of the dwelling adjacent to the garage. The garage is tucked under the main floor of the dwelling and is placed so as not to obstruct light and ventilation to the dwelling or adjacent buildings. The placement of the garage is such that a person would walk from the deck on its rooftop into the first floor of the back of the dwelling. The Board therefore finds that the garage does not count toward the lot occupancy of the dwelling.

#### Special exception analysis

The Board is authorized to grant special exceptions where, in its judgment, the special exception will be "in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property." 11 DCMR § 3104.1. Certain special exceptions must also meet the conditions enumerated in the particular section pertaining to them. In this case, the Applicants had to meet both the requirements of § 3104.1 and § 223 of the Zoning Regulations.

The Applicants' addition will project into their rear yard, but its rear wall will be flush with that of the attached row dwelling. The only part of the addition which will reach to the rear lot line will be the low-level deck on top of the garage. Therefore, although for zoning purposes, the Applicants will have no rear yard, from the standpoint of light and air, there will remain an open area over the deck of approximately 15 feet between the rear lot line and the rear wall of the addition. Abutting the rear lot line is a 30-foot wide public alley and immediately next to the subject property is a vacant lot. The addition will not have any windows overlooking the adjacent vacant lot, but only on its rear, overlooking the alley, and on its front, overlooking the street. There will be a roof deck on top of the second story at the front of the house, but there was no evidence that the deck, or indeed, the addition as a whole, would unduly compromise the privacy of use and enjoyment of neighboring properties.

The third floor of the addition is set back approximately 29 feet from the façade of the existing dwelling, which itself is set back 25 feet from the street. There are also several other three-story dwellings along the street on both sides of the subject dwelling. There was some dispute about how much of the addition would be visible from the street. The Board concludes that whatever small percentage may be visible, it does not substantially visually intrude upon the character, scale and pattern of houses along I Street.

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The Board has considered the arguments of the opposition party and the ANC and is mindful of the protective nature of the FB Overlay. The Board, however, concludes that granting the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, including those of the FB Overlay. The Applicants are restoring their historic dwelling and returning it to single-family use, thereby enhancing the residential character of the area by maintaining existing residential uses, pursuant to § 1521.3(c). The Applicants' addition is not out of scale with the neighborhood nor does it destroy the low scale harmony of rhythmic townhouses along I Street.

### Great Weight

The Board is required to give "great weight" to issues and concerns raised by the affected ANC and to the recommendations made by the Office of Planning. D.C. Official Code §§ 1-309.10(d) and 6-623.04 (2001). Great weight means acknowledgement of the issues and concerns of these two entities and an explanation of why the Board did or did not find their views persuasive.

The Applicants argued that the Board should not give great weight to the ANC's written resolution because it was submitted after the hearing and it did not address the elements of § 223, but instead set forth legal interpretations of the Zoning Regulations. Neither of these propositions are reasons to deny the resolution great weight. Due to timing difficulties encountered by the ANC, partly because the application was revised, the Board held the record open after the close of the hearing to accept the ANC's resolution. At the decision meeting, the Board waived the regulation requiring that the ANC's report be submitted 7 days prior to the hearing (§ 3115.1), and accepted the resolution. The fact that the ANC's resolution focused on its interpretation of the FB Overlay provisions, and not on the specific elements of §223, is no reason to deny it great weight as the Overlay provisions are relevant to the analysis of this application. The Board therefore gave the ANC's resolution great weight and thoroughly considered the issues it raised. For the reasons set forth above, however, the Board does not find the ANC's views persuasive.

The Office of Planning was reluctant to make a recommendation as to the proposed addition's visual impact on the character, scale and pattern of the houses on the street frontage or its harmony with the general intent and purpose of the Zoning Regulations without input from the Historic Preservation Review Board. OP did conclude that there would be no appreciable adverse impacts from the proposed addition on light, air, and privacy of neighboring properties. The Board found OP's conclusion regarding no adverse impacts persuasive. Finally, as set forth above the Board fully considered OP's concerns regarding lot occupancy as it pertains to the garage portion of the addition as well as the availability of §223 relief in the FB Overlay.

Based on the record before the Board and for the reasons stated above, the Board concludes that the Applicants have satisfied the burden of proof with respect to an application for a special exception pursuant to 11 DCMR § 223, for an addition to a single-family dwelling. It is therefore **ORDERED** that the application is **GRANTED**.

**VOTE:**                    4-0-1 (Geoffrey H. Griffis, Ruthanne G. Miller, John A. Mann, II and Gregory Jeffries, to grant. Curtis L. Etherly, not participating, not voting)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

Each voting Board member has approved the issuance of this Order granting the application.

**FINAL DATE OF ORDER:** SEP 14 2005

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION,

DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.



**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 17274 of Mario Alas and Haydee Vanegas**, pursuant to 11 DCMR § 3103.2, for a variance from the floor area ratio requirements under section 771, a variance from the rear yard requirements under section 774, and a variance from the off-street parking requirements under subsection 2101.1, to allow a two story addition to an existing one-story restaurant (office space proposed on the top floor) in the C-2-A District at premises 6303 Georgia Avenue, N.W. (Square 2978, Lot 41).

**HEARING DATES:** January 25, 2005, March 29, 2005, September 13, 2005  
**DECISION DATE:** September 13, 2005

**DISMISSAL ORDER**

**REVIEW BY THE ZONING ADMINISTRATOR**

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief.

**BACKGROUND**

The subject application was filed with the Board of Zoning Adjustment (Board) on November 12, 2004. Pursuant to 11 DCMR 3113.3, notice of the January 25, 2005 public hearing was sent to the applicant, all owners of property within 200 feet of the subject site, the Advisory neighborhood Commission (ANC) 4B and the District of Columbia Office of Planning (OP). The applicants did not post placards at the property regarding the application and public hearing and as such did not submit an affidavit to the Board to this effect. By letter (Exhibit 21) dated January 12, 2005, the applicant requested that the Board postpone the January 25, 2005, hearing until a later date. The Board granted the applicant's request. The postponement date was set for March 29, 2005.

By letter (Exhibit 22) dated March 18, 2005, the applicants requested a postponement of the rescheduled March 29, 2005, hearing. This was the second postponement requested by the applicants. On March 29, 2005, as a preliminary matter, and without the applicants presence, the Board granted the request for postponement of the hearing and rescheduled the hearing to September 13, 2005. The Board instructed the applicants to be ready to proceed with their application on September 13, 2005. The Office of Zoning advised the applicants by letter (Exhibit 23) of the Board's action.

By letter dated September 1, 2005, the applicants wrote the Board stating, "I need to postpone(ment) the hearing date Tuesday, September 13, 2005, please reschedule." No

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Telephone: (202) 727-6311

E-Mail Address: [zoning\\_info@dc.gov](mailto:zoning_info@dc.gov)

Web Site: [www.docz.dcgov.org](http://www.docz.dcgov.org)

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further reasons for the postponement were given in the letter. On September 13, 2005, the Board considered the applicant's third request for postponement of the hearing. The Board denied the requested postponement. The applicants did not appear before the Board ready to at proceed with the hearing. As such, the Board dismissed the application for failure to prosecute.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **DISMISSED**.

**Applicant's Motion to Reschedule the September 13, 2005 Public Hearing:**

**VOTE:**        4-0-1        (Geoffrey H. Griffis, Ruthanne G. Miller, Curtis L. Etherly, Jr. and John A. Mann II, to deny the motion, the Zoning Commission member not present, not voting).

**Board's Motion to Dismiss the Application:**

**VOTE:**        4-0-1        (Geoffrey H. Griffis, Curtis L. Etherly, Jr., Ruthanne G. Miller and John A. Mann II to approve the motion, the Zoning Commission member not present, not voting).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

Each concurring member approved the issuance of this order.

**FINAL DATE OF ORDER:** September 15, 2005

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT." rsn

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 17300 of St. Patrick's Protestant Episcopal Day School**, pursuant to 11 DCMR § 3104.1 for a special exception under Section 206 to allow an increase in the student enrollment from 40 to 60 children at a private school in the R-1-B District at premises 4925 MacArthur Boulevard, N.W. (Square 1393, Lot 17) and to permit students to walk between the premises and the main campus at 4700 Whitehaven Parkway.

**HEARING DATES:** April 12, 2005

**DECISION DATE:** April 26, 2005

**DECISION AND ORDER**

On January 28, 2005, St. Patrick's Protestant Episcopal Day School (the School or the Applicant), filed an application with the Board of Zoning Adjustment (the Board) for a special exception under Section 206 of the Zoning Regulations to allow an increase in the student enrollment from 40 to 60 children, at a private school that was last approved under BZA Order No. 16852-A. The School amended its application to also request that students be permitted to walk between the premises at 4925 MacArthur Boulevard and the main campus at 4700 Whitehaven Parkway. Following a public hearing on April 12, 2005, the Board voted to approve both requests at a decision meeting held on April 26, 2005.

**PRELIMINARY MATTERS**

Self-Certification The zoning relief requested in this application is self-certified pursuant to 11 DCMR § 3113.2 (Exhibit 5).

Notice of Public Hearing Pursuant to 11 DCMR 3113.3, notice of the hearing was sent to the Applicant, all entities owning property within 200 feet of the Applicant's site, the Advisory Neighborhood Commission (ANC) 3D, and the Office of Planning (OP). The Applicant posted placards at the property regarding the application and public hearing and submitted an affidavit to the Board to this effect (Exhibit 23).

ANC 3D The subject site is located within the area served by Advisory Neighborhood Commission 3D (the ANC), which is automatically a party to this application. The ANC filed a report indicating that at a public meeting on March 2, 2005, with a quorum present, it met to consider the requested relief. The ANC voted 4-3-1 to oppose an increase in student enrollment from 40 to 60, and voted 7-1-0 to support the change permitting students to walk between the campuses under certain conditions. In its report to this effect (Exhibit 27), the ANC also noted that its By-laws require a margin of 5 votes in order to constitute a majority. No representative of the ANC appeared to testify at the public hearing.

Government Reports.

Office of Planning (OP) Report OP filed a report supporting the request to allow students to

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walk to the School from the main campus, but limiting the requested enrollment increase to 10 students instead of 20 students (Exhibit 28). However, during testimony at the public hearing, OP's representative stated that an enrollment increase of 20 would not cause additional adverse impacts to the community provided the conditions of the Order (other than the condition limiting walking) were maintained.

Department of Transportation (DDOT) Report DDOT filed a report concluding that the proposed enrollment increase would only minimally affect the existing level of service of the surrounding street system, and would not have an adverse impact on the area road network from a transportation standpoint (Exhibit 36). DDOT also noted that the 20 additional students would add, at most, one shuttle bus trip between the main campus and the School, and that the 15 existing parking spaces for faculty and staff were adequate.

Requests for Party Status. The Board received no requests for party status.

Persons in Opposition to the Application. The Board received six letters in opposition to the application (Exhibits 25, 26, 29, 30, 31 and 38). The letters in opposition asserted generally that the proposed enrollment increase would create objectionable noise during student arrival, dismissal, and recess times, that the school does not provide sufficient space for 60 students, and that the school has not been in operation long enough to evaluate its impact on neighboring properties. Michael Lovendusky, who submitted two of the letters, also testified in opposition to the application, stating that most of the School's students do not reside in the neighborhood. He also expressed concern about the School's overall expansion plans, specifically the potential plans to add a high school on another campus, and stated that the enforcement condition in the Order, Condition 20, was not effective.

Persons in Support of the Application. The Board received two letters in support of the application (Exhibits 22, and 35). Charles and Sharon Houy, who reside at the property most immediately abutting the School, stated that the School's operations had been conducted in an orderly manner and that they did not oppose the application (Exhibit 22). Another letter in support was submitted by three ANC commissioners, Sarah Shapley, Hugh Mullane, and Richard Hamilton (Exhibit 35). They stated that they voted in support of the enrollment increase because the traffic management had been effective, the School has engaged in ongoing communication with the community, and the School had demonstrated its willingness to comply with the conditions of its approval. Spence Spencer, a neighborhood resident, also testified in support of the application, stating that the conditions of Board approval were "working".

Applicant's Case. Peter Barrett, headmaster of St. Patrick's Episcopal Day School, testified on behalf of the Applicant. The Applicant also presented testimony and evidence from Robert Brenneman, an acoustical engineer with Polysonics Corp. Mr. Brenneman was recognized by the Board as an expert in acoustical engineering, regarding the potential noise impacts of the additional 20 students.

## FINDINGS OF FACT

### Background

1. In 2003 the Board approved the School's application to operate a private junior high school in the existing building located at 4925 MacArthur Boulevard, NW. The Board initially issued BZA Order No. 16852 on March 25, 2003 approving this use. Because the language at the end of the order erroneously stated that the Order would not be valid for more than six months, the Board issued Corrected Decision and Order No. 16852-A, also dated March 25, 2003.
2. In addition to the junior high school, the Applicant operates a co-educational elementary school for 440 students at 4700 Whitehaven Parkway, NW (the Whitehaven campus or the main campus). The School is about one-half mile from the Whitehaven campus.

### The Property and Surrounding Area

3. The subject property consists of approximately 21,000 square feet of land area in the R-1-B zone at premises 4925 MacArthur Blvd., N.W. (Square 1393, Lot 823). It has approximately 150 feet of frontage on MacArthur Blvd. and also has frontage on Ashby Street, N.W.
4. The property is located in the Palisades neighborhood of Ward 3, at the corner of MacArthur Blvd. and Ashby Street. Ashby Street is a narrow residential street improved with ten single-family houses.
5. The property contains a 2-1/2 story building, built in 1905, in the northwest corner, and the remainder of the property is occupied by a parking lot and a large lawn. Pursuant to the 2003 Board Order, the building was renovated for school use. As of the date of the public hearing, the School had been operating for approximately 15 months.

### The Special Exception History

6. When the Board approved the junior high school use in 2003, it also imposed 20 conditions. Among other things, these conditions limited enrollment to 40 students, required a shuttle bus system and carpool program to minimize the number of vehicles coming to the School for pick-ups and drop-offs, and established a community liaison committee to address any community concerns related to the School:  
Condition Number 16: "The Applicant shall limit enrollment at the subject property to a maximum of 40 students in grades 7 through 9";  
Condition Number 7: "The Applicant shall provide a shuttle bus system to minimize the number of vehicles coming to the subject property to drop off or pick up students."
  - (a) Students who do not walk to school or arrive at the subject property by public transportation will be required to arrive at the gymnasium at the Applicant's Whitehaven campus between 7:30 a.m. and 7:55 a.m. on school days for transportation to the subject property by shuttle bus. In the afternoon, the students will be required to return to the Whitehaven campus via shuttle bus for pick-up.
  - (b) The shuttle buses shall employ a round-trip route between the Whitehaven campus and the subject property utilizing Whitehaven Parkway, MacArthur

Blvd., Arizona Avenue, Loughboro Road, and Foxhall Road back to Whitehaven Parkway.

- (c) The shuttle buses shall stop to on-and off- load students on MacArthur Blvd. in front of the school building. The Applicant shall ensure that the shuttle buses do not idle at the subject property but are released from the Whitehaven campus as necessary to make scheduled morning drop-offs and afternoon pick-ups.
- (d) The Applicant shall monitor compliance with the shuttle bus system daily and shall make such compliance a condition of student enrollment. The Applicant shall not permit students to be dropped off or picked up at the subject property at arrival and dismissal times except in prearranged special circumstances, such as when a child will arrive late due to a doctor's appointment. Student drop-offs in special circumstances shall be at the Ashby parking lot."

Condition Number 18: "The Applicant shall establish and maintain a community liaison committee to address community concerns related to the private school use of the subject property. It is recommended that the community liaison committee include representatives of ANC 3D, the Palisades Citizens Association, owners of property abutting the subject property, and other interested persons. The Applicant shall conduct meetings of the committee at least quarterly, giving notice of the meetings to committee members and to the owners of all property within 200 feet of the subject property. Detailed minutes of all meetings shall be taken, maintained, and circulated among the members."

- 7. Under the current traffic management plan associated with Condition Number 7, students are transported to and from the School by shuttle bus unless they arrive late for school, after the shuttle bus has completed its last route. In that event, they are picked up at the Whitehaven Campus by an administrative staff member and transported to the School.

**The Requested Relief**

- 8. The School has proposed an enrollment increase of 20 students, to be added in two phases. Ten additional students would be admitted for the 2006-2007 school year, bringing the total enrollment to 50 students. An additional 10 students would be admitted for the 2007-2008 school year, which would bring the total enrollment to the proposed maximum of 60 students and result in a modification of Condition Number 16. The proposal would not require any additional faculty or staff or any additional parking spaces beyond the 15 spaces now required.
- 9. The School also proposes to permit students to walk between the Whitehaven campus and the School, resulting in a modification of Condition Number 7. Students would be permitted to walk at the beginning of the day during school arrival time, and at the end of the day, during school dismissal time; or, with written parental permission, late arriving students could walk if weather permits. The students have permission to walk through the nearby Lab School of Washington.

**Traffic Impacts of Additional Students and Students Walking**

10. The proposed additional students will have a negligible impact on traffic in the area. The additional students will arrive at and depart from the School on the shuttle bus, and will add, at most, one shuttle bus run in the morning and one in the afternoon. This will result in a total of three shuttle bus runs in the morning and three in the afternoon. The Board credits the testimony of the headmaster, Peter Barrett, that the time period for unloading the shuttle bus at the School ranged from 49 seconds to 1 minute and 30 seconds in one test period. The additional students will also be included in the School's Carpool Initiative, which established a target average vehicle occupancy of 1.60.
11. The Board also credits DDOT's findings that: (a) the additional students will only minimally affect the existing level of service of the surrounding street system; and, (b) from a transportation standpoint, the project will not have an adverse impact on the area road network.
12. The Board also finds that the Applicant's proposal to permit students to walk between the Whitehaven campus and the School will have a positive impact on traffic by reducing the number of vehicular trips to and from the School.

**Noise Impacts of Additional Students and Students Walking**

13. Robert Brenneman, the applicant's sound expert, testified and submitted a report indicating that the additional 20 students would not create objectionable noise impacts (Exhibit 24, Tab B). Mr. Brenneman also found that the sound of the voices is compatible with this residential neighborhood, even with the additional students.
14. The Board accepts the findings and conclusions contained in Mr. Brenneman's expert testimony and report, which were based upon a field study of the noise generated by the students during their outdoor time.

**Compliance With Conditions of BZA Order**

15. Based upon minutes from the Community Liaison Committee, OP found that the School has been operating without any objectionable effects from noise, traffic, or number of students. OP also found that the conditions under which the School operates have been instrumental in ensuring that there are no adverse impacts on neighboring properties (Exhibit 28). The Board adopts these findings.

**CONCLUSIONS OF LAW**

The Board of Zoning Adjustment is authorized under the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Code § 5-524(g)(2)), to grant special exceptions as provided in the Zoning Regulations. The Applicant applied under 11 DCMR § 3104.1 for a special exception pursuant to 11 DCMR § 206 to allow an increase in student enrollment and to permit students to walk between the main campus at 4700 Whitehaven Parkway and the School.

The Board can grant a special exception where, in its judgment, two general tests are met, and, the special conditions for the particular exception are met. First, the requested special exception must "be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps." 11 DCMR § 3104.1. Second, it must "not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Map." 11 DCMR §3104.1.

The Applicant has established that the proposed changes (20 additional students and the students walking between the School and the main campus) would be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The School had been operating at the site for over a year by the time of the public hearing and has complied with its conditions of operation. During this time period the School has operated without any objectionable effects from noise, traffic, or number of students. There is no evidence to suggest that the additional students, or the presence of students walking between the campuses, would adversely affect the use of neighboring properties or be incompatible with the neighborhood in the future.

Under Section 206.1 of the Zoning Regulations, the Board may permit the use of private schools subject to the following provisions:

206.2 The private school shall be located so that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, number of students, or otherwise objectionable conditions. As stated in the Findings of Fact, the private school, even with 20 additional students and some students walking between campuses, is not likely to become objectionable to nearby properties. The Board is persuaded that the proposed changes will have minimal impact on the noise and traffic conditions at the School (See Findings of Fact 10-15).

206.3 Ample parking space, but not less than that required in chapter 21 of this title, shall be provided to accommodate the students, teachers, and visitors likely to come to the site by automobile. Granting the requested relief will have no impact on the parking at the School. The number of required parking spaces is based upon the number of teachers and staff -- not the number of students -- and the level of staffing is not being increased. There are 15 parking spaces, more than the 7 spaces that are required for the current number of staff.

The Board is required, under D.C. Code § 6-623.04, to give "great weight" to OP recommendations. In its report OP recommended that the enrollment increase be approved, but for only 10 additional students. However, OP's report did not identify specific, quantifiable impacts that would justify limiting the enrollment increase to 10 rather than 20 students. Further, at the hearing, OP stated that an additional 10 students ( with a total increase of 20) would not have an adverse impact on the community provided the conditions set forth in this Order are continued. Accordingly, the Board and OP are in agreement .

The ANC Issues and Concerns



The Board is also required, under Section 13 of the Advisory Neighborhood Commission Act of 1975, effective October 10, 1975 (D.C. Law 1-21, as amended; now codified at D.C. Code § 1-309.10, to give "great weight" to the issues and concerns raised in the affected ANC's recommendations. To give great weight the Board must articulate with particularity and precision the reasons why the ANC does or does not offer persuasive advice under the circumstances, articulating specific findings and conclusions with respect to each of the ANC's issues and concerns.

The Board notes that although the ANC proposed a motion to oppose the enrollment increase, that motion was not approved because a majority of the commissioners, as defined by the ANC's By-laws, did not vote in favor of it. Accordingly, with respect to the enrollment increase, the Board finds that the ANC did not provide a recommendation in its written report that can be afforded great weight. However, the ANC did vote in favor of permitting students to walk between the campuses and noted this in the written report it submitted. Therefore, the Board does give great weight to the ANC's recommendation on this issue; and, for reasons explained above, the Board finds the ANC's advice on this issue to be persuasive.

For the reasons stated above, the Board concludes that the Applicant has met its burden of proof. By this Order, the Board revises Condition No. 16 of BZA Order No. 16852-A to allow a maximum enrollment of 60 students at the School, and Condition No. 7 of BZA Order No. 16852-A to allow students to walk between the Whitehaven Campus and the School under certain circumstances.

Condition No. 16 is modified to read as follows: The Applicant shall limit enrollment at the subject property to a maximum of 60 students in grades 7 through 9.

Condition No. 7 is modified to read as follows: The Applicant shall provide a shuttle bus system to minimize the number of vehicles coming to the subject property to drop off or pick up students.

- a) Students who do not walk to school or arrive at the subject property by public transportation will be required to arrive at the gymnasium at the Applicant's Whitehaven campus between 7:30 a.m. and 7:55 a.m. on school days for transportation to the subject property by shuttle bus. In the afternoon, the students will be required to return to the Whitehaven campus via shuttle bus for pick-up.
- b) Students may also walk from the gymnasium at the Whitehaven Campus to the subject property after 7:30 a.m., provided they have already been recorded as having arrived at the Whitehaven Campus. Any students walking from the Whitehaven Campus to the MacArthur Campus shall walk across Whitehaven Parkway, through the Lab School campus to MacArthur Boulevard and then proceed to the subject property. At dismissal time, students may walk from the subject property to the Whitehaven Campus, for sports or for dismissal, provided they have the approval of the MacArthur Campus Director or his/her designee. Any students walking from the MacArthur Campus to the Whitehaven Campus shall walk along MacArthur Boulevard and through the Lab School property to the Whitehaven Campus.

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- c) The shuttle buses shall employ a round-trip route between the Whitehaven campus and the subject property utilizing Whitehaven Parkway, MacArthur Blvd., Arizona Avenue, Loughboro Road, and Foxhall Road back to Whitehaven Parkway.
- d) The shuttle buses shall stop to on- and off- load students on MacArthur Blvd. in front of the school building. The applicant shall ensure that the shuttle buses do not idle at the subject property but are released from the Whitehaven campus as necessary to make scheduled morning drop-offs and afternoon pick-ups.
- e) The Applicant shall monitor compliance with the shuttle bus system daily and shall make such compliance a condition of student enrollment. The applicant shall not permit students to be dropped off or picked up at the subject property at arrival and dismissal times except in prearranged special circumstances, such as when a child will arrive late due to a doctor's appointment. Student drop-offs in special circumstances shall be at the Ashby parking lot.

For convenience, the conditions as revised in this Order are set forth in full in the Appendix.

**VOTE:**        **5-0-0** (Geoffrey H. Griffis, Ruthanne G. Miller, Curtis L. Etherly, Jr. and John A. Mann, II to grant; Anthony J. Hood to grant by absentee ballot)

Vote taken on April 26, 2005

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

Each concurring Board Member approved the issuance of this order.

**FINAL DATE OF ORDER:** SEP 08 2005

PURSUANT TO 11 DCMR 3125.9, "NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN

## BZA APPLICATION NO. 17300

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ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

**APPENDIX**

1. No organized sports shall be conducted on the subject property. All outdoor activity involving students shall be conducted on-site and shall be recreational in nature. The applicant shall provide adult supervision for all outdoor activity involving students at the subject property.
2. The Applicant shall not employ loudspeakers, amplified music, or bells at the subject property.
3. The Applicant shall schedule all deliveries to the subject property to occur between 9:30 a.m. and 4:00 p.m., Monday through Friday.
4. The school building shall be open for occupancy by students from 7:30 a.m. until 4:00 p.m., Monday through Friday.
5. The subject property shall not be occupied by students for a minimum of two months during the summer season.
6. The Applicant shall not use large commercial dumpsters on the subject property.
7. The Applicant shall provide a shuttle bus system to minimize the number of vehicles coming to the subject property to drop off or pick up students.
  - a) Students who do not walk to school or arrive at the subject property by public transportation will be required to arrive at the gymnasium at the Applicant's Whitehaven campus between 7:30 a.m. and 7:55 a.m. on school days for transportation to the subject property by shuttle bus. In the afternoon, the students will be required to return to the Whitehaven campus via shuttle bus for pick-up.

- b) Students may also walk from the gymnasium at the Whitehaven Campus to the subject property after 7:30 a.m., provided they have already been recorded as having arrived at the Whitehaven Campus. Any students walking from the Whitehaven Campus to the MacArthur Campus shall walk across Whitehaven Parkway, through the Lab School campus to MacArthur Boulevard and then proceed to the subject property. At dismissal time, students may walk from the subject property to the Whitehaven Campus, for sports or for dismissal, provided they have the approval of the MacArthur Campus Director or his/her designee. Any students walking from the MacArthur Campus to the Whitehaven Campus shall walk along MacArthur Boulevard and through the Lab School property to the Whitehaven Campus.
  - c) The shuttle buses shall employ a round-trip route between the Whitehaven campus and the subject property utilizing Whitehaven Parkway, MacArthur Blvd., Arizona Avenue, Loughboro Road, and Foxhall Road back to Whitehaven Parkway.
  - d) The shuttle buses shall stop to on- and off- load students on MacArthur Blvd. in front of the school building. The applicant shall ensure that the shuttle buses do not idle at the subject property but are released from the Whitehaven campus as necessary to make scheduled morning drop-offs and afternoon pick-ups.
  - e) The Applicant shall monitor compliance with the shuttle bus system daily and shall make such compliance a condition of student enrollment. The applicant shall not permit students to be dropped off or picked up at the subject property at arrival and dismissal times except in prearranged special circumstances, such as when a child will arrive late due to a doctor's appointment. Student drop-offs in special circumstances shall be at the Ashby parking lot.
8. The Applicant shall establish a carpool program to and from the Whitehaven campus serving students at the subject property.
- a) The Applicant shall require carpools to drop off and pick up students at the Whitehaven campus in coordination with the shuttle bus system for transportation to and from the subject property.
  - b) Before seeking a certificate of occupancy for the subject property, the Applicant shall submit the carpool program for review and approval by the District Department of Transportation (DDOT). The Applicant shall submit a progress report evaluating the carpool program to DDOT once per year; copies of the annual progress report and DDOT's response shall be given to the community liaison committee established by the Applicant pursuant to this order.

9. The total number of faculty and staff at the subject property shall not exceed 8 full-time and 4 part-time.
10. The Applicant shall provide at least 15 parking spaces on the subject property, as shown on the Applicant's site plan SP1. (Exhibit No. 340).
11. The Applicant shall use the subject property for special evening events after 4:00 p.m. no more than two times during the school year. Evening events shall finish no later than 10:00 p.m.
12. The Applicant shall hold no more than two daytime special events, when the school is open to parents and other non-students, at the subject property during the school year. Daytime special events shall be scheduled to occur between 10:00 a.m. and 4:00 p.m.
13. The applicant shall arrange adequate off-street parking for daytime and evening special events at a location off-site so that persons attending the events are not likely to park on the streets in the vicinity of the subject property.
14. The Applicant shall not permit use of the subject property at any time by any persons or groups for purposes not related to school use.
15. The Applicant shall arrange any lighting used to illuminate the parking lot on the subject property so that all direct rays of the lighting are confined to the surface of the parking lot.
16. The Applicant shall limit enrollment at the subject property to a maximum of 60 students in grades 7 through 9.
17. The Applicant shall install fencing, as shown on the site plan (Exhibit No. 340) along the southern property line, at the Applicant's expense, if requested by the abutting property owner.
18. The Applicant shall establish and maintain a community liaison committee to address community concerns related to the private school use of the subject property. It is recommended that the community liaison committee include representatives of ANC 3D, the Palisades Citizens Association, owners of the property abutting the subject property, and other interested persons. The Applicant shall conduct meetings of the committee at least quarterly, giving notice of the meetings to committee members and to the owners of all property within 200 feet of the subject property. Detailed minutes of all meetings shall be taken, maintained, and circulated among the members.
19. Expansion of the building on the subject property shall be limited to the area necessary for access shown on the Applicant's site plan (Exhibit No. 340).

20. The special exception shall be valid except that this Order shall terminate and require modification upon a finding by the Board that the Applicant has either admitted violating, paid a fine for violating, or has been found by the Department of Consumer and Regulatory Affairs, after hearing, to have violated the same condition on three or more occasions within five years

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 17306-A of Hannah Reisman**, pursuant to 11 DCMR §§ 1202 and 3104.1, for a special exception under section 223, to allow an addition to an existing single-family dwelling, not meeting the rear yard requirements (section 404), in the CAP/R-4 District at premises 227 C Street, S.E. (Square 763, Lot 24).

**HEARING DATE:** April 19, 2005  
**DECISION DATE:** April 19, 2005 (Bench Decision)  
**DECISION DATE ON MODIFICATION:** September 13, 2005

**MODIFICATION OF APPROVED PLANS**  
**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 6B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. ANC 6B submitted a report in support of the application. The Office of Planning (OP) submitted a report in conditional support of the application. The Architect of the Capitol submitted a letter stating in part that the application would create no adverse effect on the Capitol Complex.

**REQUEST FOR MINOR MODIFICATION OF PLANS**

The above-captioned application was approved by the Board of Zoning Adjustment (Board) by Order No. 17306, dated April 19, 2005. On June 2, 2005, the applicant filed a motion (Exhibit 31) with the Board requesting to make a minor modification to the approved plans. The modification involves a request to remove a skylight and recessed stairs from the approved plans. The applicant submitted revised plans shown as Exhibit 31, in the record. A modification of approved plans is allowed with Board approval under the provisions of section 3129 of the Zoning Regulations. By memorandum (Exhibit 32) dated June 3, 2005, the Office of Zoning noticed the Office of Planning and Advisory Neighborhood Commission 6B, the parties, about the applicant's request, further

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noting that the Board's consideration of the applicant's motion would be discussed at the Board's September 13, 2005, public meeting.

Advisory Neighborhood Commission 6B submitted a letter (Exhibit 33) dated June 28, 2005, to the Board stating, "...regarding the motion of Hannah Reisman to make a minor modification to her approved plans (April 19, 2005), we have reviewed the proposed changes and have judged them to be so minor as to not warrant a formal review by the ANC." The OP did not comment on the request for minor modification.

The Board concludes that the requested modification of plans was timely filed pursuant to subsection 3129.3, is minor in nature and does not change the material facts the Board relied upon in approving the original application.

Pursuant to 11 DCMR § 3101.6 and 3129.1, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that the **MODIFICATION** of **APPROVED PLANS** be **GRANTED** subject to the revised plans (Exhibit No. 31) in the record.

**VOTE:**        **4-0-1**        (Geoffrey H. Griffis, John A. Mann II, Ruthanne G. Miller, and Gregory Jeffries to approve by absentee vote, Curtis L. Etherly, Jr. not hearing the case, not voting).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

Each concurring member approved the issuance of this order.

**FINAL DATE OF ORDER:** SEP 15 2005

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.



PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

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**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 17327 of 1812 35<sup>th</sup> Street Assoc. LLC**, pursuant to 11 DCMR § 3104.1, for a special exception to allow the construction of a three-story rear addition to a single-family semi-detached dwelling under § 223 of the Zoning Regulations, not meeting the lot occupancy (§ 403) and side yard requirements (§ 405) in the R-3 District at premises 1812 35<sup>th</sup> Street, NW (Square S-1296, Lot 27<sup>1</sup>).

**HEARING DATE:** June 7, 2005

**DECISION DATE:** June 28, 2005

**DECISION AND ORDER**

The 1812 35<sup>th</sup> Street Associates LLC, the property owner (the owner or the applicant) of the subject premises, filed an application with the Board of Zoning Adjustment (Board) on March 21, 2005, for a special exception under § 223 to construct an addition to a residential dwelling<sup>2</sup> where the addition would not conform to the lot occupancy requirements or minimum side yard requirements of sections 403 and 405 of the Zoning Regulations. Following a hearing on June 7, 2005, the Board voted to deny the special exception.

**Preliminary Matters**

**Zoning Referral** On or about March 2, 2005, the Zoning Review Branch of the Department of Consumer and Regulatory Affairs (DCRA) referred the applicant to this Board for zoning relief (Exhibit 4).

**Notice of Public Hearing** Pursuant to 11 DCMR 3113.3, notice of the hearing was sent to the applicant, all owners of property within 200 feet of the subject site, the Advisory Neighborhood Commission (ANC) 2E, and the District of Columbia Office of Planning (OP). The applicant posted placards at the property regarding the application and public hearing and submitted an affidavit to the Board to this effect. (Exhibit 29).

**ANC Report** In its report dated May 13, 2005, ANC 2E indicated that, at a regularly scheduled monthly meeting with a quorum present, it voted to oppose the special exception (Exhibit 24). In its report, the ANC noted its concern that "the property owner to the north" would suffer adverse impacts relating to light and air.

**Request for Party Status** ANC 2E was automatically a party to this proceeding. The Board received requests for party status from three neighboring property owners, Deidre Stancioff, Robert Robelus, and Richard Schmidt (Exhibits 27, 22, and 25). The Board also received a request for party status from Amy and David Monk, former property owners in the neighborhood. (Exhibit 28). The Board granted opposition party status to Ms. Stancioff and Mr.

<sup>1</sup> The subject property is actually located at Lot 802 (See, Exhibits 4 and 39).

<sup>2</sup> As will be explained in the Findings of Fact, construction began prior to the public hearing.

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Robelus, but denied the requests from Mr. Schmidt and the Monks, neither of whom were present at the hearing. Both Ms. Stancioff and Mr. Robelus were represented by Laurie B. Horvitz, Esq. Ms. Stancioff resides at 1814 35<sup>th</sup> Street (the Stancioff property), an adjacent property to the north, and Mr. Robelus resides at 1818 35<sup>th</sup> Street (the Robelus property).

**Other Persons in Opposition** The Board also received letters in opposition from two other nearby property owners (Exhibits 21 and 23).

**Office of Planning (OP) Report** OP reviewed the special exception application and prepared a written report recommending denial of the special exception (Exhibit 30). Among other things, OP concluded that the light available to abutting properties would be adversely affected by the addition, and that the new front facade of the structure would result in a significant visual intrusion upon the street frontage.

**Applicant's Case** The applicant presented testimony by Angel F. Clarens, who was qualified as an expert in architecture. Mr. Clarens maintained that the application met the test for a special exception under § 223 of the Zoning Regulations.

## **FINDINGS OF FACT**

### **The Site and Surrounding Area**

The subject property is an existing single-family dwelling located at 1812 35<sup>th</sup> Street, NW in the R-3 zone. The lot of the subject property is approximately 2,400 square feet in size and was improved with a one and one-half story masonry dwelling that was built around 1910. The property slopes away from 35<sup>th</sup> Street with several large trees in the rear yard, surrounded by a wooden stockade fence that is approximately six feet tall.

On the north side of the property, the dwelling is situated on the side lot line. On the south side of the property, the dwelling has a nonconforming side yard setback that is between two and one-half and three feet along the southern property boundary.

Development to the north, south, and west consists mostly of two-story detached, semi-detached, and row dwellings of frame or masonry construction. To the east across 35<sup>th</sup> Street are a two-story apartment building, and two buildings occupied by the Filmore Arts Academy, and a former public school building now occupied by the Corcoran Gallery of Art and Design College.

### **Background**

The applicant purchased the property in 2003 after a fire had destroyed the interior of the original dwelling. Later, the applicant obtained building permits from DCRA to repair the fire damage and to construct one and one-half additional floors above the existing dwelling as a matter-of-right. The construction was largely completed by the time of the public hearing, resulting in a three-story renovated dwelling that expanded twenty-seven and one-half feet further into the rear yard.

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According to the applicant, the building permits were issued by DCRA based upon the structure's classification as a row dwelling, a dwelling without side yards that is permitted as-of-right in the R-3 zone.

However, DCRA later concluded that the subject dwelling is a semi-detached dwelling, not a row dwelling. Although the dwelling has one wall in line at the northern property boundary, it also has a side yard along its southern boundary. As a result, DCRA concluded that the property was subject to the side yard and lot occupancy limitations for a semi-detached dwelling, and referred the applicant to the Board for special exception relief (Exhibit 4)<sup>3</sup>.

### **The Requested Relief**

1. Applicant seeks special exception relief to continue the nonconforming side yard along its southern property boundary (3 feet.).
2. Applicant also seeks special exception relief to expand its lot occupancy from 26.5 % to approximately 43.75%, which exceeds the 40 % lot occupancy permissible in the zone.

### **The Impact of the Addition**

The applicant submitted photographs of the property and elevation plans with his application. He also submitted a site plan showing the relationship of the addition to adjacent buildings and views from the public ways (See, Exhibits 5 and 7).

1. At OP's request, the applicant's architect prepared shadow diagrams depicting the original dwelling, the dwelling with the existing addition, and the dwelling with an addition that is the maximum size permitted under the Zoning Regulations (See Exhibits 8 and 9 appended to OP's report).
2. The renovated dwelling does not affect the privacy of neighboring property owners to the north or the south. The addition wall along the shared northern boundary with the Stancioff property does not include windows. The primary view from the addition to the south is over the neighboring residence rather than into it; and, views into the southern property's rear yard are limited to its western end by a rear addition and the angle of view.
3. The Board credits and adopts OP's finding that the front facade of the renovated dwelling significantly intrudes upon the 35<sup>th</sup> Street frontage in terms of its architectural character and scale. Vertical articulation of the second and third floors negates the roofline of the original building and reflects few characteristics of more typical building facades along the street (See photographs and elevations at Exhibits 5, 7, and 19, and diagrams/views appended to OP Report at Exhibit 30)

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<sup>3</sup> Ms. Stancioff also filed an appeal of the building permits issued by DCRA. However, that appeal is not relevant to this proceeding.

4. The dwelling is in an eclectic neighborhood, However, the other homes are holistic in character. This one, in contrast, does not connect to itself.
5. The Board received no evidence that the renovated dwelling adversely affects the light and air available to neighboring properties to the south or to those properties on the opposite side of the street.
6. The Board credits and adopts OP's finding that the addition significantly decreases the amount of light received by properties to the north. Based upon the applicant's own shadow studies, OP found that the renovated dwelling covers more of adjacent rear yards for a longer period of the day from early fall through the winter. In particular, OP noted that the Stancioff property would remain in shadow most of the day during the fall and winter season.
7. The Board credits and adopts OP's finding that the shadows also affect the utility of the rear yards to the north.

### CONCLUSIONS OF LAW

#### The Special Exception

The Board is authorized under § 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799, as amended; D.C. Official Code § 6-641.07(g)(2) (2001)), to grant special exceptions as provided in the Zoning Regulations. The applicant is seeking a special exception pursuant to 11 DCMR §§ 223 and 3104.1 to retain an addition to a one-family dwelling in an R-3 District, where the addition will not comply with the side yard requirements of § 405 or the lot occupancy requirements of § 403.

The Board may grant a special exception where, in its judgment, two general tests are met, and, the special conditions for the particular exception are also met. As will be explained more fully, the Board concludes that the special conditions under § 223 have not been met and the special exception must therefore be denied.

The general tests. First, the requested special exception must "be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps." 11 DCMR § 3104.1. Second, it must "not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Map" 11 DCMR § 3104.1. As to the first test, the Board concludes that the renovated dwelling with an addition is in harmony with the general purpose and intent of the Zoning Regulations and the Zoning Map. The addition does not change the residential use of the dwelling and is allowable in the R-3 zone.

However, the second test has not been met. Since the second test is nearly identical to the criteria for the special conditions under § 223, it will be discussed in the section below entitled "The 'special conditions' for an addition under § 223.1".

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The "special conditions" for an addition under § 223.1. Under Section 223.1 of the Zoning Regulations, the Board may permit an addition to a single family dwelling where it does not comply with applicable area requirements, such as the side yard requirement, subject to its not having a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

- a. The light and air available to neighboring properties shall not be unduly affected. The Board concludes that light and air to neighboring properties will be unduly affected by the proposed addition. As stated above, the addition substantially decreases the amount of light received by properties to the north, especially the Stancioff property (Finding of Fact 15). While the reduction in light may be limited to the fall and winter months, the Board cannot overlook such an adverse impact for even a portion of the year.
- b. The privacy of use and enjoyment of neighboring properties shall not be unduly compromised. The Board does not find that the privacy of neighboring properties will be affected by the addition. Although the addition is separated from the Stancioff property by only a few feet, it has no windows along its northern wall which borders on the property. As to the southern neighbors, the views from the addition are limited (Finding of Fact 12).
- c. The addition, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage. This condition has not been met. While the property is located in an eclectic neighborhood, the front façade of the renovated dwelling is vastly out of character and scale with the frontage along 35<sup>th</sup> Street (Finding of Fact 13).

Thus, the applicant has not satisfied the criteria under sub-sections (a) or (c) of § 223.1. As a result, it does not meet either the special conditions of § 223 or the general test that a special exception not adversely affect neighboring properties.

The Board is required under Section 13 of the Advisory Neighborhood Commission Act of 1975, effective October 10, 1975 (D.C. Law 1-21), as amended; D.C. Official Code § 1-9.10(d)(3)(A)), to give "great weight" to the issues and concerns raised in the affected ANC's recommendations. ANC 2E opposed the special exception relief for both side yard and lot occupancy relief. For the reasons stated in this Decision and Order, the Board concurs with the ANC's recommendation..

In reviewing a special exception application, the Board is also required under D.C. Official Code § 6-623.04(2001) to give "great weight" to OP recommendations. For the reasons stated in this Decision and Order, the Board also finds OP's advice to be persuasive.

For the reasons stated above, the Board concludes that the applicant has not satisfied the burden of proof with respect to the application for a special exception under § 223 to allow the construction of an addition that does not comply with the lot occupancy and side yard requirements in an R-3 zone.

**SEP 23 2005**

Therefore, for the reasons stated above, the application for a special exception is **DENIED**.

**VOTE:**       **4-0-1** (Geoffrey H. Griffis, Ruthanne A. Miller, Curtis L. Etherly, Jr., and John A. Mann II, being in favor of the motion to deny, and no Zoning Commission member having participated in the application)

Vote taken on June 28, 2005

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

Each concurring member has approved the issuance of this Decision and Order.

**FINAL DATE OF ORDER: SEP 13 2005**

PURSUANT TO 11 DCMR 3125.9, "NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6."

**ZONING COMMISSION NOTICE OF FILING**

**Case No. 05-28**

**(First Stage PUD & Related Map Amendment – Squares 5041, 5055, & 5056)**

**September 8, 2005**

**THIS CASE IS OF INTEREST TO ANC 7D**

On August 31, 2005, the Office of Zoning received an application from Parkside Residential LLC (the “applicant”) for approval of a first stage PUD and related map amendment for the above-referenced property.

The property that is the subject of this application consists of Squares 5041, 5055, and 5056 in Northeast Washington, D.C. (Ward 7) and is located just north of the intersection of Minnesota Avenue and Benning Road, N.E. The property is currently zoned R-5-A and C-2-B.

The applicant proposes to create a mixed-use project that will provide housing, employment, and retail opportunities in Ward 7. In addition, the applicant seeks a related map amendment to rezone the site to C-R and C-3-C. This request is not inconsistent with the Comprehensive Plan of the District of Columbia.

For additional information, please contact Sharon S. Schellin, Acting Secretary to the Zoning Commission, at (202) 727-6311.



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